

By: King of Uvalde

H.B. No. 2019

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of manufactured homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.003, Occupations Code, is amended by amending Subdivisions (1), (6), (7), (8), (19), (23), (24), (26), (30), and (32) and adding Subdivisions (21-a) and (22-a) to read as follows:

(1) "Advertisement" means a commercial message that promotes the sale or exchange~~[, or lease-purchase]~~ of a manufactured home and that is presented on radio, television, a public-address system, or electronic media or appears in a newspaper, a magazine, a flyer, a catalog, direct mail literature, an inside or outside sign or window display, point-of-sale literature, a price tag, or other printed material. The term does not include educational material or material required by law.

(6) "Broker" means a person engaged by one or more other persons to negotiate or offer to negotiate a bargain or contract for the sale or exchange~~[, or lease-purchase]~~ of a manufactured home for which a certificate or other document of title has been issued and is outstanding. The term does not include a person who maintains a location for the display of manufactured homes.

(7) "Business use" means the use of a manufactured home in conjunction with operating a business, for a purpose other

1 than as a permanent or temporary residential dwelling.

2 (8) "Consumer" means a person, other than a person  
3 licensed under this chapter, who seeks to acquire or acquires by  
4 purchase or[7] exchange[~~7 or lease-purchase~~] a manufactured home.

5 (19) "Manufacturer" means a person who constructs or  
6 assembles manufactured housing for sale or[7] exchange[~~7 or~~  
7 ~~lease-purchase~~] in this state.

8 (21-a) "Nonresidential use" means use of a  
9 manufactured home for a purpose other than as a permanent or  
10 temporary residential dwelling.

11 (22-a) "Refurbish" means any general repairs,  
12 improvements, or aesthetic changes to a manufactured home that do  
13 not constitute the rebuilding of a salvaged manufactured home.

14 (23) "Related person" means a person who directly [~~or~~  
15 ~~indirectly~~] participates in management or policy decisions, holds a  
16 supervisory position over employees, or has the authority to enter  
17 into binding agreements on behalf of the company or business.

18 (24) "Retailer" means a person who:

19 (A) is engaged in the business of buying for  
20 resale, selling, or exchanging manufactured homes or offering  
21 manufactured homes for sale or[7] exchange[~~7 or lease-purchase~~] to  
22 consumers, including a person who maintains a location for the  
23 display of manufactured homes; and

24 (B) sells or[7] exchanges[~~7 or lease-purchases~~]  
25 at least two manufactured homes to consumers in a 12-month period.

26 (26) "Salesperson" means a person who, as an employee  
27 or agent of a retailer or broker, sells [~~or lease-purchases~~] or

1 offers to sell [~~or lease-purchase~~] manufactured housing to a  
2 consumer.

3 (30) "Statement of ownership [~~and location~~]" means a  
4 statement issued by the department and setting forth:

5 (A) the ownership [~~and location~~] of a  
6 manufactured home in this state as provided by Section 1201.205;  
7 and

8 (B) other information required by this chapter.

9 (32) "Used manufactured home" means a manufactured  
10 home which has been occupied for any use or for which a statement of  
11 ownership [~~and location~~] has been issued. The term does not  
12 include:

13 (A) a manufactured home that was used as a sales  
14 model at a licensed retail location; or

15 (B) a manufactured home that:

16 (i) was sold as a new manufactured home and  
17 installed but never occupied;

18 (ii) had a statement of ownership [~~and~~  
19 ~~location~~]; and

20 (iii) was taken back from the consumer or  
21 transferee because of a first payment default or agreement to  
22 rescind or unwind the transaction.

23 SECTION 2. Subchapter A, Chapter 1201, Occupations Code, is  
24 amended by adding Section 1201.010 to read as follows:

25 Sec. 1201.010. ELECTRONIC PUBLIC RECORDS REQUIRED. The  
26 department shall provide to the public through the department's  
27 Internet website searchable and downloadable information regarding

1 manufactured home ownership records, lien records, installation  
2 records, license holder records, manufacturers' monthly shipment  
3 reports, and enforcement actions.

4 SECTION 3. Section 1201.054, Occupations Code, is amended  
5 by adding Subsection (d) to read as follows:

6 (d) To maintain affordability of manufactured homes in this  
7 state, the board shall:

8 (1) conduct a cost benefit analysis for any rule,  
9 process, or policy change that will increase a fee or another  
10 incurred cost by more than \$50 for license holders or consumers; and

11 (2) present at the next board meeting an analysis  
12 detailing whether the need for the rule, process, or policy change  
13 justifies the increase.

14 SECTION 4. Section 1201.055(a), Occupations Code, is  
15 amended to read as follows:

16 (a) With guidance from the federal Housing and Community  
17 Development Act of 1974 (42 U.S.C. Section 5301 et seq.) and from  
18 the rules and regulations adopted under the National Manufactured  
19 Housing Construction and Safety Standards Act of 1974 (42 U.S.C.  
20 Section 5401 et seq.), the board shall establish fees as follows:

21 (1) if the department acts as a design approval  
22 primary inspection agency, a schedule of fees for the review of  
23 HUD-code manufactured home blueprints and supporting information,  
24 to be paid by the manufacturer seeking approval of the blueprints  
25 and supporting information;

26 (2) except as provided by Subsection (e), a fee for the  
27 inspection of each HUD-code manufactured home manufactured or

1 assembled in this state, to be paid by the manufacturer of the home;

2 (3) a fee for the inspection of an alteration made to  
3 the structure or plumbing, heating, or electrical system of a  
4 HUD-code manufactured home, to be charged on an hourly basis and to  
5 be paid by the person making the alteration;

6 (4) a fee for the inspection of the rebuilding of a  
7 salvaged manufactured home, to be paid by the retailer;

8 (5) a fee for the inspection of a used manufactured  
9 home to determine whether the home is habitable for the issuance of  
10 a new statement of ownership ~~[and location]~~; and

11 (6) a fee for the issuance of a seal for a used mobile  
12 or HUD-code manufactured home.

13 SECTION 5. Section [1201.101](#), Occupations Code, is amended  
14 by amending Subsections (b), (c), (e), and (g) and adding  
15 Subsection (e-1) to read as follows:

16 (b) Except as otherwise provided by this chapter, a person  
17 may not sell or ~~[7]~~ exchange, or ~~[lease-purchase or]~~ offer to sell  
18 or ~~[7]~~ exchange, ~~[or lease-purchase]~~ two or more manufactured homes  
19 to consumers in this state in a 12-month period unless the person  
20 holds a retailer's license.

21 (c) A person may not offer to negotiate or negotiate for  
22 others a bargain or contract for the sale or ~~[7]~~ exchange~~[7 or~~  
23 ~~lease-purchase]~~ of two or more manufactured homes to consumers in  
24 this state in a 12-month period unless the person holds a broker's  
25 license.

26 (e) A person may not repair, rebuild, or otherwise refurbish  
27 ~~[alter]~~ a salvaged manufactured home unless the person holds a

1 retailer's license.

2 (e-1) A person other than a consumer may not refurbish a  
3 manufactured home that is not a salvaged manufactured home unless  
4 the person holds a retailer's license.

5 (g) A person may not make an announcement concerning the  
6 sale or[7] exchange[~~7, or lease-purchase~~] of, or offer to sell or[7]  
7 exchange[~~7, or lease-purchase~~], a manufactured home to a consumer in  
8 this state through an advertisement unless the person holds a  
9 manufacturer's, retailer's, or broker's license. This subsection  
10 does not apply to:

11 (1) a person exempt from licensing; or

12 (2) an advertisement concerning real property on which  
13 there is a manufactured home that has been converted to real  
14 property in accordance with Section 1201.2055.

15 SECTION 6. Section 1201.102(d), Occupations Code, is  
16 amended to read as follows:

17 (d) A person who holds a real estate broker's or  
18 salesperson's license under Chapter 1101 may act as a broker or  
19 salesperson under this chapter without holding a license or filing  
20 a bond or other security as required by this chapter if negotiations  
21 for the sale or[7] exchange[~~7, or lease-purchase~~] of a manufactured  
22 home are conducted for a consumer for whom the person is also acting  
23 as a real estate broker or salesperson under Chapter 1101  
24 consistent with Section 1201.007.

25 SECTION 7. Sections 1201.104(a), (a-2), (b), and (h),  
26 Occupations Code, are amended to read as follows:

27 (a) Except as provided by Subsection (g), as a requirement

for a manufacturer's, retailer's, broker's, installer's, or salesperson's license, or to be designated as a related person, a person who was not licensed or registered with the department or a predecessor agency on September 1, 1987, must, not more than 12 months before applying for the person's first license under this chapter or for designation as a related person, as applicable, attend and successfully complete eight hours of instruction in the law, including instruction in consumer protection regulations.

(a-2) An applicant for a retailer's license must complete four hours of specialized instruction relevant to the sale and [7] exchange[~~7~~ ~~and lease-purchase~~] of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(b) Except in the case of an applicant for a salesperson's license, successful completion of the course of instruction is a prerequisite to obtaining the license or to being designated as a related person.

(h) An examination must be a requirement of successful completion of any initial required course of instruction under this section. The period needed to complete an examination under this subsection may not be used to satisfy the minimum education requirements under Subsection (a), (a-2), (a-3), or (a-4). If the examination failure rate exceeds 25 percent, the board shall:

(1) review the examination and the examination procedures; and

(2) adopt rules intended to maintain the historical passage rate for the examination.

SECTION 8. Section 1201.106(a-1), Occupations Code, is amended to read as follows:

(a-1) Notwithstanding the provisions of Subsection (a), the director may require additional security for the licensing, renewal, or relicensing of a person, or the sponsoring of a salesperson, who, either directly, as a related person, or through a related person, has been the subject of a license revocation, has caused the trust fund to incur unreimbursed costs or liabilities in excess of available surety bond coverage, or has failed to pay an administrative penalty that has been assessed by final order.

SECTION 9. Sections 1201.107(b) and (d), Occupations Code, are amended to read as follows:

(b) Property used for the business that is not contiguous to, or located within 300 feet of, a bonded location requires a separate bond. A location at which a manufactured home is shown to the public or at which the home is offered for sale or ~~exchange~~ ~~or lease-purchase~~ by a retailer to consumers requires a bond.

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale or ~~exchange~~ ~~or lease-purchase~~ by a retailer or broker to the public, the retailer or broker must:

(1) identify the bond on file with the department in conjunction with that person's license; and

(2) provide contractually in the sales transaction that the identified bond applies to the sale.



SECTION 10. Section 1201.111(a), Occupations Code, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, a state or national bank, state or federal savings and loan association, federal savings bank, or state or federal credit union engaged in the business of selling or exchanging, ~~or lease-purchasing~~ or offering for sale or exchange, ~~or lease-purchase~~ manufactured homes that the institution has acquired through repossession of collateral is not required to attend a course of instruction or file a bond or other security to be licensed as a retailer.

SECTION 11. The heading to Section 1201.113, Occupations Code, is amended to read as follows:

Sec. 1201.113. ~~[CERTIFICATION AND]~~ CONTINUING EDUCATION PROGRAMS.

SECTION 12. Section 1201.113, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) The board shall approve ~~or administer~~ continuing education programs for licensees under this chapter. A continuing education program must be at least eight hours long and must include the current rules of the department and such other matters as the board may deem relevant.

(b) Completion of an approved ~~or administered~~ continuing education program ~~course~~ described by Subsection (a) is a prerequisite to renewal of a license.

(d) If the approval of a continuing education program

1 expires between regularly scheduled board meetings, the director  
2 may, on receipt of the required renewal application, fee, and  
3 necessary documentation of education material, approve the  
4 continued administration of the program until the next board  
5 meeting.

6 SECTION 13. Section 1201.151(e), Occupations Code, is  
7 amended to read as follows:

8 (e) A deposit becomes a down payment upon execution of a  
9 retail sales contract or other applicable contract [~~binding written~~  
10 ~~agreement~~]. Thereafter, if the consumer exercises the consumer's  
11 three-day [~~a~~] right of rescission in accordance with Section  
12 1201.1521, the retailer shall, not later than the 15th day after the  
13 date of the rescission, refund to the consumer all money and other  
14 consideration received from the consumer, with only the allowable  
15 [~~without offset or~~] deduction for third-party expenses in  
16 accordance with Section 1201.1511.

17 SECTION 14. Subchapter D, Chapter 1201, Occupations Code,  
18 is amended by adding Section 1201.1511 to read as follows:

19 Sec. 1201.1511. THIRD-PARTY EXPENSES. (a) Notwithstanding  
20 Section 1201.151 or 1201.1521, a retailer may collect from a  
21 consumer in advance or deduct from the consumer's deposit or down  
22 payment any third-party expenses incurred by the retailer if the  
23 consumer:

24 (1) contracts with the retailer to arrange for  
25 services that are performed by a third party and related to the  
26 construction and installation of a manufactured home;

27 (2) is provided notice of laws relating to rescission

1 and third-party expenses before signing the contract for  
2 third-party services; and

3 (3) is provided an itemized list of the specific  
4 third-party expenses incurred by the retailer.

5 (b) A retailer may not charge to the consumer any fees or  
6 expenses other than the third-party expenses disclosed to the  
7 consumer under Subsection (a)(3).

8 (c) The department may demand copies of contracts,  
9 invoices, receipts, or other proof of any third-party expenses  
10 retained by a retailer.

11 SECTION 15. Section 1201.152(a), Occupations Code, is  
12 amended to read as follows:

13 (a) If a retailer purchases a new manufactured home from an  
14 unlicensed manufacturer in violation of Section 1201.505, a  
15 consumer's contract with the retailer for the purchase or[7]  
16 ~~exchange[7, or lease-purchase]~~ of the home is voidable until the  
17 second anniversary of the date of purchase or[7] ~~exchange[7, or~~  
18 ~~lease-purchase]~~ of the home.

19 SECTION 16. Section 1201.1521, Occupations Code, is amended  
20 to read as follows:

21 Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE OR[7]  
22 ~~EXCHANGE[7, OR LEASE-PURCHASE]~~ OF HOME. (a) A person who acquires a  
23 manufactured home from or through a licensee by purchase or[7]  
24 ~~exchange[7, or lease-purchase]~~ may, not later than the third day  
25 after the date the retail sales contract or other applicable  
26 contract is signed, rescind the contract without penalty or charge  
27 other than a third-party expense incurred in accordance with

1 Section 1201.1511.

2 (b) Subject to rules adopted by the board, a consumer may  
3 waive a right of rescission in the event of a bona fide  
4 emergency. Such rules shall, to the extent practical, be modeled  
5 on the federal rules for the waiver of a right of rescission under  
6 12 C.F.R. Part 1026 [~~226~~].

7 (c) Notwithstanding Subsection (a), if the purchase of the  
8 manufactured home is made wholly or partly with a consumer credit  
9 transaction in which a creditor will obtain a lien or other security  
10 interest in the manufactured home during the term of the credit  
11 transaction, the right of rescission immediately terminates on the  
12 execution by the consumer of a binding note, security agreement, or  
13 other financing credit contract for which the consumer's purchased  
14 manufactured home will serve as collateral for the consumer credit  
15 transaction.

16 SECTION 17. Section 1201.156, Occupations Code, is amended  
17 to read as follows:

18 Sec. 1201.156. ADVERTISEMENT AS OFFER. An advertisement  
19 relating to manufactured housing is an offer to sell or [~~7~~]  
20 exchange [~~7~~, ~~or lease-purchase~~] manufactured housing to consumers.

21 SECTION 18. Section 1201.157, Occupations Code, is amended  
22 to read as follows:

23 Sec. 1201.157. RETAILER AS WAREHOUSE [~~WAREHOUSEMAN~~]. (a)  
24 With respect to the storage of manufactured homes for hire, a [~~A~~]  
25 licensed retailer is:

26 (1) a "warehouse" ["warehouseman"] as defined by  
27 Section 7.102, Business & Commerce Code; and

1           (2) a "warehouseman" under Chapter 24, Property Code  
2 ~~[, for the storage of manufactured homes for hire].~~

3           (b) The provisions of the Business & Commerce Code relating  
4 to the storage of goods for hire apply to a licensed retailer acting  
5 as a warehouse ~~[warehouseman]~~.

6           (c) A licensed retailer acting as a warehouse and  
7 warehouseman satisfies all storage, bonding, insurance, public  
8 sale, and security requirements if the storage of a manufactured  
9 home occurs on the retailer's lot and the home is secured in the  
10 same manner the retailer secures a manufactured home held on the lot  
11 as inventory.

12           (d) In accordance with the provisions of Section 7.210,  
13 Business & Commerce Code, a licensed retailer acting as a warehouse  
14 to enforce a warehouse's lien is considered to have sold a  
15 manufactured home in a commercially reasonable manner if the  
16 retailer sells the manufactured home in the same manner the  
17 retailer would sell a manufactured home at retail.

18           SECTION 19. Sections 1201.162(a) and (c), Occupations Code,  
19 are amended to read as follows:

20           (a) Before the completion of a credit application or more  
21 than one day before entering into any agreement for a sale or ~~[,]~~  
22 exchange ~~[, or the exercise of the lease purchase option]~~ that will  
23 not be financed, the retailer must provide to the consumer a written  
24 disclosure in the form promulgated by the board. The disclosure  
25 shall be in at least 12-point type and must address matters of  
26 concern relating to costs and obligations that may be associated  
27 with home ownership, matters to be considered in making financing

1 decisions, related costs that may arise when purchasing a  
 2 manufactured home, and such other matters as the board may deem  
 3 appropriate to promote informed purchase, financing, and related  
 4 decisions regarding the acquisition and ownership of a manufactured  
 5 home. The form shall also conspicuously disclose the consumer's  
 6 right of rescission.

7 (c) The right of rescission described in Subsection (a)  
 8 shall apply only to the sale transaction between the retailer and  
 9 the consumer. Failure by the retailer to comply with the disclosure  
 10 provisions of this section does not affect the validity of a  
 11 subsequent conveyance or transfer of title of a manufactured home  
 12 or otherwise impair a title or lien position of a person other than  
 13 the retailer. The consumer shall continue to have the right of  
 14 rescission with regard to the retailer until the end of the third  
 15 day after the retailer delivers a copy of the disclosure required by  
 16 Subsection (a). The consumer's execution of a signed receipt of a  
 17 copy of the disclosure required by Subsection (a) shall constitute  
 18 conclusive proof of the delivery of the disclosure. If the consumer  
 19 grants a person other than the retailer a lien on the manufactured  
 20 home, the right of rescission ~~[shall]~~ immediately terminates on  
 21 execution of a binding note, security agreement, or other financing  
 22 credit contract, or ~~[cease]~~ on the filing of the lien with the  
 23 department.

24 SECTION 20. Section 1201.164, Occupations Code, is amended  
 25 to read as follows:

26 Sec. 1201.164. ADVANCE COPY OF CONTRACT AND DISCLOSURE  
 27 STATEMENTS; OFFER BY RETAILER. (a) In a transaction that is to be

1 financed and that will not be subject to the federal Real Estate  
2 Settlement Procedures Act of 1974 (Pub. L. No. 93-533) and its  
3 implementing regulations, a retailer shall deliver to a consumer at  
4 least 24 hours before the retail sales contract or other applicable  
5 contract is fully executed the contract, with all required  
6 information included, signed by the retailer. The delivery of the  
7 contract, with all required information included, signed by the  
8 retailer constitutes a firm offer by the retailer. Except as  
9 provided for by [~~in~~] Subsection (b), the consumer may accept the  
10 offer not earlier than 24 hours after the delivery of the contract.  
11 If the consumer has not accepted the offer within 72 hours after the  
12 delivery of the contract, the retailer may withdraw the offer.

13 (b) The consumer may modify or waive the right to rescind  
14 and the deadlines for disclosures before the execution of the  
15 contract that are provided by Subsection (a) if the consumer  
16 determines that the purchase of the manufactured home is needed to  
17 meet a bona fide personal emergency. If the consumer has a bona  
18 fide personal emergency that necessitates the immediate purchase of  
19 the manufactured home, the consumer shall give the retailer a dated  
20 written statement that describes the emergency, specifically  
21 modifies or waives the notice periods and any right of rescission,  
22 and bears the signature of all of the consumers entitled to the  
23 disclosures and right of rescission. In such event the retailer  
24 shall immediately give the consumer all of the disclosures required  
25 by this code and sell the manufactured home without the required  
26 waiting periods or the right of rescission. The department shall  
27 verify with the consumer the consumer's bona fide personal

1 emergency before issuing the statement of ownership [~~Printed forms~~  
2 ~~for this purpose are prohibited except in a county that has been~~  
3 ~~declared by the governor to be a major disaster area. If the~~  
4 ~~governor declares a county to be a major disaster area, the retailer~~  
5 ~~may use printed forms promulgated by the department. This~~  
6 ~~exception shall expire one year after the county has been declared a~~  
7 ~~major disaster area~~].

8 SECTION 21. The heading to Subchapter E, Chapter 1201,  
9 Occupations Code, is amended to read as follows:

10 SUBCHAPTER E. MANUFACTURED HOME STATEMENTS OF OWNERSHIP [~~AND~~  
11 ~~LOCATION~~]

12 SECTION 22. Section 1201.201, Occupations Code, is amended  
13 by amending Subdivisions (1), (2), (3), (5), and (11) and adding  
14 Subdivision (1-a) to read as follows:

15 (1) "Certificate of attachment" means a written  
16 instrument issued solely by and under the authority of the director  
17 before September 1, 2001, that provides the information required by  
18 former Section 19(1), Texas Manufactured Housing Standards Act  
19 (Article 5221f, Vernon's Texas Civil Statutes), as that subsection  
20 existed before that date. Beginning September 1, 2003, a  
21 certificate of attachment is considered to be a statement of  
22 ownership and may be exchanged for a statement of ownership as  
23 provided by Section 1201.214.

24 (1-a) "Debtor" has the meaning assigned by Section  
25 9.102, Business & Commerce Code.

26 (2) "Document of title" means a written instrument  
27 issued solely by and under the authority of the director before



September 1, 2003, that provides the information required by Section 1201.205, as that section existed before that date. Beginning September 1, 2003, a document of title is considered to be a statement of ownership ~~[and location]~~ and may be exchanged for a statement of ownership ~~[and location]~~ as provided by Section 1201.214.

(3) "First retail sale" means a consumer's initial acquisition of a new manufactured home from a retailer by purchase ~~or~~ exchange~~[, or lease-purchase]~~. The term includes a bargain, sale, transfer, or delivery of a manufactured home for which the director has not previously issued a statement of ownership ~~[and location]~~, with intent to pass an interest in the home, other than a lien.

(5) "Inventory" means new and used manufactured homes that:

(A) a retailer has designated as the retailer's inventory for sale pursuant to the process implemented by the department; and

(B) are not used as residential dwellings when so designated ~~[has the meaning assigned by Section 9.102, Business & Commerce Code].~~

(11) "Subsequent sale" means a bargain, sale, transfer, or delivery of a manufactured home, with intent to pass an interest in the home, other than a lien, from one person to another after the first retail sale and initial issuance of a statement of ownership ~~[and location]~~.

SECTION 23. Section 1201.203, Occupations Code, is amended

1 to read as follows:

2           Sec. 1201.203. FORMS; RULES. (a) The board shall adopt  
3 rules and forms relating to:

4                   (1) the manufacturer's certificate;

5                   (2) the statement of ownership [~~and location~~];

6                   (3) the application for a statement of ownership [~~and~~  
7 ~~location~~]; and

8                   (4) the issuance of an initial or revised statement of  
9 ownership.

10           (b) The board shall adopt rules for the documenting of the  
11 ownership [~~and location~~] of a manufactured home that has been  
12 previously owned in this state or another state. The rules must  
13 protect a lienholder recorded with the department.

14           (c) The department may make corrections and other  
15 nonsubstantive changes to forms described by this section when  
16 necessary to improve efficiency or to modernize the department's  
17 systems. The board shall review any changes made by the department  
18 at the next board meeting following the changes.

19           SECTION 24. Sections 1201.204(a) and (c), Occupations Code,  
20 are amended to read as follows:

21           (a) A manufacturer's certificate must show:

22                   (1) on a form prescribed by the director, the original  
23 transfer of a manufactured home from the manufacturer to the  
24 retailer; and

25                   (2) on a form prescribed by the director, each  
26 subsequent transfer of a manufactured home between retailers and  
27 from retailer to owner, if the transfer from retailer to owner

1 involves a completed application for the issuance of a statement of  
2 ownership [~~and location~~].

3 (c) After the first retail sale of a manufactured home, the  
4 retailer must submit the original manufacturer's certificate for  
5 that home to the department. If an application for an initial  
6 statement of ownership is made without the required manufacturer's  
7 certificate and the retailer does not provide it as required, the  
8 department shall, on or before the issuance of the requested  
9 statement of ownership [~~and location~~], send written notice to each  
10 party currently reflected on the department's records as having a  
11 recorded lien on the inventory of that retailer with respect to that  
12 home. Failure to include the original manufacturer's certificate  
13 with such an application does not impair a consumer's ability to  
14 obtain, on submittal of an otherwise complete application, a  
15 statement of ownership [~~and location~~] free and clear of any liens  
16 other than liens created by or consented to by the consumer.

17 SECTION 25. Section 1201.205, Occupations Code, is amended  
18 to read as follows:

19 Sec. 1201.205. STATEMENT OF OWNERSHIP [~~AND LOCATION~~] FORM.  
20 A statement of ownership [~~and location~~] must be evidenced by a  
21 board-approved form issued by the department setting forth:

22 (1) the name and address of the seller and the name  
23 and, if it is different from the location of the home, the mailing  
24 address of the new owner;

25 (2) the manufacturer's name and address and any model  
26 designation, if available;

27 (3) in accordance with the board's rules:

1           (A) the outside dimensions of the manufactured  
2 home when installed for occupancy, as measured to the nearest  
3 one-half foot at the base of the home, exclusive of the tongue or  
4 other towing device; and

5           (B) the approximate square footage of the home  
6 when installed for occupancy;

7           (4) the identification number for each section or  
8 module of the home;

9           (5) the physical address where the home is installed  
10 for occupancy, including the name of the county, and, if it is  
11 different from the physical address, the mailing address of the  
12 owner of the home;

13           (6) in chronological order of recordation, the date of  
14 each lien, other than a tax lien, on the home and the name and  
15 address of each lienholder, or, if a lien is not recorded, a  
16 statement of that fact;

17           (7) a statement regarding tax liens as follows:

18           "On January 1st of each year, a new tax lien comes into  
19 existence on a manufactured home in favor of each taxing unit having  
20 jurisdiction where the home is actually located on January 1st. In  
21 order to be enforced, any such lien must be recorded with the Texas  
22 Department of Housing and Community Affairs - Manufactured Housing  
23 Division as provided by law. You may check that division's records  
24 through its website or contact that division to learn any recorded  
25 tax liens. To find out about the amount of any unpaid tax  
26 liabilities, contact the tax office for the county where the home  
27 was actually located on January 1st of that year.";

1           (8) a statement that if two or more eligible persons,  
2 as determined by Section 1201.213, file with the application for  
3 the issuance of a statement of ownership [~~and location~~] an  
4 agreement signed by all the persons providing that the home is to be  
5 held jointly with a right of survivorship, the director shall issue  
6 the statement of ownership [~~and location~~] in all the names;

7           (9) the location of the home;

8           (10) a statement of whether the owner has elected to  
9 treat the home as real property [~~or personal property~~];

10           (11) statements of whether the home is a salvaged  
11 manufactured home and whether the home is reserved for business use  
12 only or for another nonresidential use; and

13           (12) any other information the board requires.

14       SECTION 26. Sections 1201.2055(a), (c), (d), (e), (g), and  
15 (i), Occupations Code, are amended to read as follows:

16       (a) In completing an application for the issuance of a  
17 statement of ownership [~~and location~~], an owner of a manufactured  
18 home shall indicate whether the owner elects to treat the home as  
19 [~~personal property or~~] real property. An owner may elect to treat a  
20 manufactured home as real property only if the home is attached to:

21           (1) real property that is owned by the owner of the  
22 home; or

23           (2) land leased to the owner of the home under a  
24 long-term lease, as defined by department rule.

25       (c) If the department issues a statement of ownership [~~and~~  
26 ~~location~~] to an owner of a manufactured home treated as personal  
27 property [~~who has elected to treat a manufactured home as personal~~

1 ~~property~~], the statement of ownership [~~and location~~] on file with  
2 the department is evidence of ownership of the home. A lien,  
3 charge, or other encumbrance on a home treated as personal property  
4 may be made only by filing the appropriate document with the  
5 department.

6 (d) If an owner elects to treat a manufactured home as real  
7 property, the department shall issue to the owner a [~~certified~~]  
8 copy of the statement of ownership [~~and location~~] that on its face  
9 reflects that the owner has elected to treat the manufactured home  
10 as real property at the location listed on the statement. Not later  
11 than the 60th day after the date the department issues a [~~certified~~]  
12 copy of the statement of ownership [~~and location~~] to the owner, the  
13 owner must:

14 (1) file the [~~certified~~] copy in the real property  
15 records of the county in which the home is located; and

16 (2) notify the department and the chief appraiser of  
17 the applicable appraisal district that the [~~certified~~] copy has  
18 been filed.

19 (e) A real property election for a manufactured home is not  
20 considered to be perfected until a [~~certified~~] copy of the  
21 statement of ownership [~~and location~~] has been filed and the  
22 department and the chief appraiser of the applicable appraisal  
23 district have been notified of the filing as provided by Subsection  
24 (d).

25 (g) After a real property election is perfected under  
26 Subsection (e):

27 (1) the home is considered to be real property for all

1 purposes; and

2 (2) no additional issuance of a statement of ownership  
3 ~~[and location]~~ is required with respect to the manufactured home,  
4 unless:

5 (A) the home is moved from the location specified  
6 on the statement of ownership ~~[and location]~~;

7 (B) the real property election is changed; or

8 (C) the use of the property is changed as  
9 described by Section 1201.216.

10 (i) Notwithstanding the 60-day deadline specified in  
11 Subsection (d), if the closing of a mortgage loan to be secured by  
12 real property including the manufactured home is held, the loan is  
13 funded, and a deed of trust covering the real property and all  
14 improvements on the property is recorded and the licensed title  
15 company or attorney who closed the loan failed to complete the  
16 conversion to real property in accordance with this chapter, the  
17 holder or servicer of the loan may apply for a statement of  
18 ownership ~~[and location]~~ electing real property status, obtain a  
19 ~~[certified]~~ copy of the statement of ownership ~~[and location]~~, and  
20 make the necessary filings and notifications to complete such  
21 conversion at any time provided that:

22 (1) the record owner of the home, as reflected on the  
23 department's records, has been given at least 60 days' prior written  
24 notice at:

25 (A) the location of the home and, if it is  
26 different, the mailing address of the owner as specified in the  
27 department records; and

1 (B) any other location the holder or servicer  
2 knows or believes, after a reasonable inquiry, to be an address  
3 where the owner may have been or is receiving mail or is an address  
4 of record;

5 (2) such notification shall be given by certified  
6 mail; and

7 (3) the department by rule shall require evidence that  
8 the holder or servicer requesting such after-the-fact completion of  
9 a real property election has complied with the requirements of this  
10 subsection.

11 SECTION 27. The heading to Section 1201.206, Occupations  
12 Code, is amended to read as follows:

13 Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF  
14 OWNERSHIP [~~AND LOCATION~~].

15 SECTION 28. Sections 1201.206(a), (b), (c), (e), (f), (g),  
16 (h), and (k), Occupations Code, are amended to read as follows:

17 (a) At the first retail sale of a manufactured home, the  
18 retailer shall provide for the installation of the home and ensure  
19 that the application for the issuance of a statement of ownership  
20 [~~and location~~] is properly completed. The consumer shall return  
21 the completed application to the retailer. In accordance with  
22 Section 1201.204, the retailer shall surrender to the department  
23 the original manufacturer's statement of origin at the same time  
24 that the retailer applies for the first statement of ownership [~~and~~  
25 ~~location~~].

26 (b) Not later than the 60th day after the date of the retail  
27 sale, the retailer shall provide to the department the completed



1 application for the issuance of a statement of ownership [~~and~~  
2 ~~location~~]. If for any reason the retailer does not timely comply  
3 with the requirements of this subsection, the consumer may apply  
4 for the issuance of the statement.

5 (c) Not later than the 60th day after the date of each  
6 subsequent sale or transfer of a home that is considered to be  
7 personal property, the seller or transferor shall provide to the  
8 department a completed application for the issuance of a new  
9 statement of ownership [~~and location~~]. If for any reason the seller  
10 or transferor does not timely comply with the requirements of this  
11 subsection, the consumer may apply for the issuance of the  
12 statement.

13 (e) Ownership of a manufactured home does not pass or vest  
14 at a sale or transfer of the home until a completed application for  
15 the issuance of a statement of ownership [~~and location~~] is filed  
16 with the department.

17 (f) If the owner of a manufactured home relocates the home,  
18 the owner shall apply for the issuance of a new statement of  
19 ownership [~~and location~~] not later than the 60th day after the date  
20 the home is relocated. The department shall require that the owner  
21 submit evidence that the home was relocated in accordance with the  
22 requirements of the Texas Department of Motor Vehicles.

23 (g) When an application is filed for the issuance of a  
24 statement of ownership [~~and location~~] for a used manufactured home  
25 that is not in a retailer's inventory or is being converted from  
26 personal property to real property in accordance with Section  
27 1201.2075 [~~is filed~~], a statement from the tax assessor-collector

for the taxing unit having power to tax the manufactured home shall also be filed with the department. The statement from the tax assessor-collector must indicate that there are no perfected and enforceable personal property taxes due that have not been extinguished and canceled in accordance with Section 32.015, Tax Code, on the manufactured home that may have accrued on each January 1 that falls within the 18 months before the date of the sale.

(h) If a person selling a manufactured home to a consumer for residential use fails to file with the department the application for the issuance of a statement of ownership [~~and location~~] and the appropriate filing fee before the 61st day after the date of the sale, the department may assess a fee of at least \$100 against the seller. The department shall have the authority to enforce the collection of any fee from the seller through judicial means. The department shall place on the application for the issuance of a statement of ownership [~~and location~~] the following legend in a clear and conspicuous manner:

"THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT OF OWNERSHIP [~~AND LOCATION~~] LATER THAN SIXTY (60) DAYS AFTER THE DATE OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE OF UP TO ONE HUNDRED DOLLARS (\$100.00). ANY SUCH APPLICATION THAT IS SUBMITTED LATE MAY BE DELAYED UNTIL THE FEE IS PAID IN FULL."

(k) Notwithstanding any provision in this chapter to the contrary, if a person has acquired a manufactured home and the owner of record or any intervening owners of liens or equitable interests cannot be located to assist in documenting the chain of title, the department may issue a statement of ownership [~~and location~~] to the

1 person claiming ownership if the person can provide a supporting  
2 affidavit describing the chain of title and such reasonable  
3 supporting proof as the director may require.

4 SECTION 29. The heading to Section 1201.207, Occupations  
5 Code, is amended to read as follows:

6 Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP [~~AND~~  
7 ~~LOCATION~~].

8 SECTION 30. Sections 1201.207(a), (a-1), (b), (c), and (d),  
9 Occupations Code, are amended to read as follows:

10 (a) Except as provided for in Subsection (a-1), the  
11 department shall process any completed application for the issuance  
12 of a statement of ownership [~~and location~~] not later than the 15th  
13 working day after the date the application is received by the  
14 department. If the department rejects an application, the  
15 department shall provide a clear and complete explanation of the  
16 reason for the rejection and instructions on how to cure any  
17 defects, if possible.

18 (a-1) For the period immediately following June 30 of each  
19 year, the department shall, except for applications relating to new  
20 manufactured homes and applications accompanied by a tax  
21 certificate, cease issuing statements of ownership [~~and location~~]  
22 until all tax liens filed with the department before June 30 have  
23 been processed and either recorded or rejected. During this period  
24 the department will post on its Internet website a notice as to when  
25 it is anticipated that processing statements of ownership [~~and~~  
26 ~~location~~] will resume and when it is anticipated that such  
27 processing will be within the 15-working-day time frame provided by

1 Subsection (a).

2 (b) If the department issues a statement of ownership [~~and~~  
3 ~~location~~] for a manufactured home, the department shall maintain a  
4 record of the issuance in its electronic records and shall mail a  
5 copy to the owner and each lienholder. The department shall make  
6 available to the public on the department's Internet website in a  
7 searchable and downloadable format all ownership and lienholder  
8 information contained on the statement of ownership.

9 (c) Except with respect to any change in use, servicing of a  
10 loan on a manufactured home, release of a lien on a manufactured  
11 home by an authorized lienholder, or change in ownership of a lien  
12 on a manufactured home, but subject to Section [1201.2075](#), if the  
13 department has issued a statement of ownership [~~and location~~] for a  
14 manufactured home, the department may issue a subsequent statement  
15 of ownership [~~and location~~] for the home only if all parties  
16 reflected in the department's records as having an interest in the  
17 manufactured home give their written consent or release their  
18 interest, either in writing or by operation of law, or the  
19 department has followed the procedures provided by Section  
20 [1201.206](#)(k) to document ownership and lien status. Once the  
21 department issues a statement of ownership [~~and location~~], the  
22 department shall not alter the record of the ownership or lien  
23 status, other than to change the record to accurately reflect the  
24 proper owner's or lienholder's identity or to release a lien if an  
25 authorized lienholder files with the department a request for that  
26 release, of a manufactured home for any activity occurring before  
27 the issuance of the statement of ownership [~~and location~~] without

1 either the written permission of the owner of record for the  
2 manufactured home, their legal representative, or a court order.

3 (d) Notwithstanding any other provision of this chapter, if  
4 the consumer purchases a new manufactured home from a licensed  
5 retailer in the ordinary course of business, whether or not a  
6 statement of ownership [~~and location~~] has been issued for the  
7 manufactured home, the consumer is a bona fide purchaser for value  
8 without notice and is entitled to ownership of the manufactured  
9 home free and clear of all liens and to a statement of ownership  
10 [~~and location~~] reflecting the same on payment by the consumer of the  
11 purchase price to the retailer. If there is an existing lien on the  
12 new manufactured home perfected with the department, the owner of  
13 the lien is entitled to recover the value of the lien from the  
14 retailer.

15 SECTION 31. Section 1201.2075, Occupations Code, is amended  
16 to read as follows:

17 Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL  
18 PROPERTY. (a) Except as provided by Subsection (b) or Section  
19 1201.206(k), the department may not issue a statement of ownership  
20 [~~and location~~] for a manufactured home that is being converted from  
21 personal property to real property until:

22 (1) each lien on the home is released by the  
23 lienholder; or

24 (2) each lienholder gives written consent, to be  
25 placed on file with the department.

26 (b) The department may issue a statement of ownership [~~and~~  
27 ~~location~~] before the release of any liens or before receiving the

consent of any lienholders as required by this section, or without receiving the statement required by Section 1201.206(g), if the department releases a ~~[certified]~~ copy of the statement to:

(1) a licensed title insurance company that has issued a commitment to issue a title insurance policy covering all prior liens on the home in connection with a loan that the title company has closed; or

(2) a federally insured financial institution or licensed attorney who has obtained from a licensed title insurance company a title insurance policy covering all prior liens on the home.

SECTION 32. Section 1201.2076(a), Occupations Code, is amended to read as follows:

(a) The department may not issue a statement of ownership ~~[and location]~~ for a manufactured home that is being converted from real property to personal property until the department has inspected the home and determined that it is habitable and:

(1) each lien, including a tax lien, on the home is released by the lienholder; or

(2) each lienholder, including a taxing unit, gives written consent, to be placed on file with the department.

SECTION 33. Section 1201.208, Occupations Code, is amended to read as follows:

Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF STATEMENT OF OWNERSHIP ~~[AND LOCATION]~~. (a) Any licensee who sells or ~~[7]~~ exchanges~~[7 or lease-purchases]~~ a new manufactured home to any consumer is responsible for the payment of all required sales

1 and use tax on such home.

2 (b) If it is determined that a new manufactured home was  
3 sold or [7] exchanged~~[, or lease-purchased]~~ without the required  
4 sales and use tax being paid, the payment shall be made from the  
5 fund, up to the available penal amount of the licensee's bond or the  
6 remaining balance of the security for the license, and a claim for  
7 reimbursement shall be filed with the licensee's surety or the  
8 amount deducted from the security for the license.

9 SECTION 34. Section 1201.209, Occupations Code, is amended  
10 to read as follows:

11 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR  
12 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP ~~[AND LOCATION]~~.  
13 The department may not refuse to issue a statement of ownership ~~[and~~  
14 ~~location]~~ and may not suspend or revoke a statement of ownership  
15 ~~[and location]~~ unless:

16 (1) the application for issuance of the statement of  
17 ownership ~~[and location]~~ contains a false or fraudulent statement,  
18 the applicant failed to provide information required by the  
19 director, or the applicant is not entitled to issuance of the  
20 statement of ownership ~~[and location]~~;

21 (2) the director has reason to believe that the  
22 manufactured home is stolen or unlawfully converted, or the  
23 issuance of a statement of ownership ~~[and location]~~ would defraud  
24 the owner or a lienholder of the manufactured home;

25 (3) the director has reason to believe that the  
26 manufactured home is salvaged, and an application for the issuance  
27 of a new statement of ownership ~~[and location]~~ that indicates that

1 the home is salvaged has not been filed;

2 (4) the required fee has not been paid;

3 (5) the state sales and use tax has not been paid in  
4 accordance with Chapter 158, Tax Code, and Section 1201.208; or

5 (6) a tax lien was filed and recorded under Section  
6 1201.219 and the lien has not been extinguished.

7 SECTION 35. The heading to Section 1201.210, Occupations  
8 Code, is amended to read as follows:

9 Sec. 1201.210. PROCEDURE FOR REFUSAL TO ISSUE OR SUSPENSION  
10 OR REVOCATION OF STATEMENT OF OWNERSHIP [~~AND LOCATION~~].

11 SECTION 36. Section 1201.210(a), Occupations Code, is  
12 amended to read as follows:

13 (a) If the director refuses to issue or suspends or revokes  
14 a statement of ownership [~~and location~~], the director shall give,  
15 by certified mail, written notice of that action to:

16 (1) the seller and purchaser or transferor and  
17 transferee, as applicable; and

18 (2) the holder of a lien or security interest of  
19 record.

20 SECTION 37. Section 1201.212, Occupations Code, is amended  
21 to read as follows:

22 Sec. 1201.212. TRANSFER OF OWNERSHIP BY OPERATION OF LAW.

23 (a) If the ownership of a manufactured home in this state is  
24 transferred by inheritance, devise, or bequest, by bankruptcy,  
25 receivership, judicial sale, or other involuntary divestiture of  
26 ownership, or by any other operation of law, the department shall  
27 issue a new statement of ownership [~~and location~~] after receiving a



1 ~~[certified]~~ copy of:

2 (1) the order or bill of sale from an officer making a  
3 judicial sale;

4 (2) the order appointing a temporary administrator;

5 (3) the probate proceedings;

6 (4) the letters testamentary or the letters of  
7 administration; or

8 (5) if administration of an estate is not necessary,  
9 an affidavit by all of the heirs at law showing:

10 (A) that administration is not necessary; and

11 (B) the name in which the statement of ownership  
12 ~~[and location]~~ should be issued.

13 (b) The department may issue a new statement of ownership  
14 ~~[and location]~~ in the name of the purchaser at a foreclosure sale:

15 (1) for a lien or security interest foreclosed  
16 according to law by nonjudicial means, if the lienholder or secured  
17 party files an affidavit showing the nonjudicial foreclosure  
18 according to law; or

19 (2) for a foreclosed constitutional or statutory lien,  
20 if the person entitled to the lien files an affidavit showing the  
21 creation of the lien and the resulting divestiture of title  
22 according to law.

23 (c) The department shall issue a new statement of ownership  
24 ~~[and location]~~ to a survivor if:

25 (1) an agreement providing for a right of survivorship  
26 is signed by two or more eligible persons, as determined under  
27 Section [1201.213](#); and

1           (2) on the death of one of the persons, the department  
2 is provided with a copy of the death certificate of that person.

3           SECTION 38. Section 1201.213(b), Occupations Code, is  
4 amended to read as follows:

5           (b) If the statement of ownership [~~and location~~] is being  
6 issued in connection with the sale of the home, the seller is not  
7 eligible to sign a right of survivorship agreement under this  
8 subchapter unless the seller is the child, grandchild, parent,  
9 grandparent, or sibling of each other person signing the agreement.  
10 A family relationship required by this subsection may be a  
11 relationship established by adoption.

12          SECTION 39. Section 1201.214, Occupations Code, is amended  
13 to read as follows:

14          Sec. 1201.214. DOCUMENT OF TITLE; CERTIFICATE OF ATTACHMENT.

15          (a) Effective September 1, 2003, all outstanding documents of  
16 title or certificates of attachment are considered to be statements  
17 of ownership [~~and location~~].

18          (b) An owner or lienholder may provide to the department a  
19 document of title or certificate of attachment and any additional  
20 information required by the department and request that the  
21 department issue a statement of ownership [~~and location~~] to replace  
22 the document of title or certificate of attachment. The department  
23 shall mail to the owner or lienholder a copy of the statement of  
24 ownership [~~and location~~] issued under this subsection.

25          SECTION 40. Section 1201.216, Occupations Code, is amended  
26 to read as follows:

27          Sec. 1201.216. CHANGE IN USE. (a) If the owner of a

1 manufactured home notifies the department that the owner intends to  
 2 treat the home as real property or intends to treat the home as a  
 3 salvaged manufactured home or reserve it ~~[its use]~~ for a business  
 4 use ~~[purpose]~~ or another nonresidential use ~~[salvage]~~, the  
 5 department shall indicate on the statement of ownership ~~[and~~  
 6 ~~location]~~ for the home that:

7 (1) the owner of the home has elected to treat the home  
 8 as described by this subsection ~~[as real property or to reserve its~~  
 9 ~~use for a business purpose or salvage]~~; and

10 (2) except as provided by Section 1201.2055(h), the  
 11 home is no longer a manufactured home for purposes of regulation  
 12 under this chapter or of recordation of liens, including tax liens.

13 (b) On application and subject to Sections 1201.2076 and  
 14 1201.209, the department shall issue for the structure described in  
 15 the application a new statement of ownership ~~[and location]~~  
 16 restoring the structure's designation as a manufactured home only  
 17 after an inspection and determination that the structure is  
 18 habitable as provided by Section 1201.453.

19 SECTION 41. Section 1201.217, Occupations Code, is amended  
 20 by amending Subsections (b), (d), and (e) and adding Subsections  
 21 (d-1) and (g) to read as follows:

22 (b) Before declaring a manufactured home abandoned, the  
 23 owner of real property on which the home is located must send a  
 24 notice of intent to declare the home abandoned to the record owner  
 25 of the home, all lienholders at the addresses listed on the home's  
 26 statement of ownership ~~[and location]~~ on file with the department,  
 27 the tax collector for each taxing unit that imposes ad valorem taxes

1 on the real property where the home is located, and any intervening  
2 owners of liens or equitable interests. The notice must include  
3 the address where the home is currently located. If the person  
4 giving such notice knows that a person to whom the notice is being  
5 given no longer resides and is no longer receiving mail at a known  
6 address, a reasonable effort shall be made to locate the person and  
7 give the person notice at an address where the person is receiving  
8 mail. Mailing of the notice by certified mail, return receipt  
9 requested, postage prepaid, to the persons required to be notified  
10 by this subsection constitutes conclusive proof of compliance with  
11 this subsection.

12 (d) If the manufactured home remains on the real property  
13 for at least 45 days after the date the notice is postmarked:

14 (1) all liens on the home are extinguished; and

15 (2) the real property owner may declare the home  
16 abandoned and may apply to the department for a statement of  
17 ownership ~~[and location]~~ listing the real property owner as the  
18 owner of the manufactured home.

19 (d-1) When applying for a statement of ownership under this  
20 section, the real property owner shall include with the application  
21 an affidavit stating that:

22 (1) the person owns the real property where the  
23 manufactured home is located; and

24 (2) the name of the person to whom title to the home  
25 will be transferred under this section is the same name that is  
26 listed in the real property or tax records indicating the current  
27 ownership of the real property.

1 (e) A new statement of ownership [~~and location~~] issued by  
2 the department under this section transfers, free of any liens, if  
3 there is evidence of United States Postal Service return receipt  
4 from all lienholders, title to the manufactured home to the real  
5 property owner.

6 (g) Notwithstanding Subsection (f), an owner of real  
7 property on which a manufactured home has been abandoned may apply  
8 for a new statement of ownership with respect to a home that was  
9 previously declared abandoned and then resold and abandoned again.

10 SECTION 42. Section 1201.219(h), Occupations Code, is  
11 amended to read as follows:

12 (h) The department shall remove from a manufactured home's  
13 statement of ownership [~~and location~~] a reference to any tax lien  
14 delinquent more than four years for which no suit has been timely  
15 filed in accordance with Section 33.05(a)(1), Tax Code, if:

16 (1) a tax collector confirms no suit has been filed; or

17 (2) the department:

18 (A) has submitted to a tax collector two requests  
19 under Subsection (g) sent not fewer than 15 days apart; and

20 (B) has not received any response from the tax  
21 collector before the 60th day after the tax collector's receipt of  
22 the second request.

23 SECTION 43. Section 1201.220, Occupations Code, is amended  
24 to read as follows:

25 Sec. 1201.220. REPORT TO CHIEF APPRAISER. (a) The  
26 department shall make available in electronic format, or in  
27 hard-copy format on request, to each chief appraiser of an

1 appraisal district in this state a monthly report that, for each  
2 manufactured home reported as having been installed during the  
3 preceding month in the county for which the district was  
4 established and for each manufactured home previously installed in  
5 the county for which a transfer of ownership was recorded by the  
6 issuance of a statement of ownership [~~and location~~] during the  
7 preceding month, lists:

- 8 (1) the name of the owner of the home;
- 9 (2) the name of the manufacturer of the home, if  
10 available;
- 11 (3) the model designation of the home, if available;
- 12 (4) the identification number of each section or  
13 module of the home;
- 14 (5) the address or location where the home was  
15 reported as installed; and
- 16 (6) the reported date of the installation of the home.

17 (b) The department shall make the report required by this  
18 section available to the public on the department's Internet  
19 website in a searchable and downloadable format.

20 SECTION 44. Section 1201.221(b), Occupations Code, is  
21 amended to read as follows:

- 22 (b) A request under Subsection (a) must contain:
- 23 (1) the name of the owner of the home as reflected on  
24 the statement of ownership [~~and location~~]; or
  - 25 (2) the identification number of the home.

26 SECTION 45. Section 1201.222(a), Occupations Code, is  
27 amended to read as follows:

(a) A manufactured home is treated as real property only if:

(1) the owner of the home has elected to treat the home as real property as provided by Section 1201.2055; and

(2) a [~~certified~~] copy of the statement of ownership [~~and location~~] for the home has been filed in the real property records of the county in which the home is located.

SECTION 46. Section 1201.255(a), Occupations Code, is amended to read as follows:

(a) Except as authorized under Section 1201.252, manufactured housing that is installed must be installed in compliance with the standards and rules adopted and orders issued by the department. An uninstalled manufactured home may not be occupied for any residential purpose.

SECTION 47. Section 1201.360(a), Occupations Code, is amended to read as follows:

(a) The seller of real property to which a new HUD-code manufactured home is permanently attached may give the initial purchaser a written warranty that combines the manufacturer's warranty and the retailer's warranty required by this subchapter if:

(1) the statement of ownership [~~and location~~] reflects that the owner has elected to treat the home as real property;

(2) the home is actually located where the statement of ownership [~~and location~~] reflects that it is located; and

(3) a [~~certified~~] copy of the statement of ownership [~~and location~~] has been filed in the real property records for the county in which the home is located.

SECTION 48. Section 1201.403, Occupations Code, is amended to read as follows:

Sec. 1201.403. AMOUNT RESERVED IN TRUST FUND; PAYMENT OF COSTS. (a) The amount ~~[One million dollars shall be]~~ reserved in the trust fund shall be determined by a specific appropriation made to the department and allocated to the fund by the operating budget of the department ~~[for payment of valid consumer claims]~~.

(b) If any part of the department's operating budget is based on appropriated receipts, ~~[Unless the balance of the trust fund is less than \$1 million, the costs of the director and the department in administering]~~ the trust fund shall be funded out of the appropriated receipts only after all other department operations have been sufficiently funded ~~[, keeping books and records, investigating consumer complaints, and conducting the informal dispute resolution process shall be paid from the trust fund]~~.

SECTION 49. Section 1201.405(d), Occupations Code, is amended to read as follows:

(d) Notwithstanding other provisions of this subchapter, this subchapter does not apply to, and a consumer may not recover against the trust fund as a result of, a claim against a license holder that results from a cause of action directly related to the sale, ~~[lease-purchase]~~ exchange, brokerage, or installation of a manufactured home before September 1, 1987.

SECTION 50. Section 1201.451, Occupations Code, is amended to read as follows:

Sec. 1201.451. TRANSFER OF GOOD AND MARKETABLE TITLE



1 REQUIRED. (a) Except as otherwise provided by this subchapter, a  
2 person may not sell or[7] exchange[7, ~~or lease-purchase~~] a used  
3 manufactured home without the appropriate transfer of good and  
4 marketable title to the home.

5 (b) Not later than the 60th day after the effective date of  
6 the transfer of ownership or the date the seller or transferor  
7 obtains possession of the necessary and properly executed  
8 documents, the seller or transferor shall forward to the purchaser  
9 or transferee the necessary, executed documents. If the seller or  
10 transferor fails to forward the documents on a timely basis, the  
11 purchaser or transferee may apply directly for the documents. On  
12 receipt of the documents, the purchaser or transferee shall apply  
13 for the issuance of a statement of ownership [~~and location~~].

14 SECTION 51. Section 1201.452(a), Occupations Code, is  
15 amended to read as follows:

16 (a) Except as otherwise provided by this subchapter, a  
17 person may not sell or[7] exchange[7, ~~or lease-purchase~~] or  
18 negotiate for the sale or[7] exchange[7, ~~or lease-purchase~~] of a  
19 used manufactured home to a consumer unless the appropriate seal or  
20 label is attached to the home.

21 SECTION 52. Section 1201.455, Occupations Code, is amended  
22 to read as follows:

23 Sec. 1201.455. WRITTEN DISCLOSURE AND WARRANTY OF  
24 HABITABILITY REQUIRED. (a) Except as otherwise provided by this  
25 subchapter, a person may not sell or[7] exchange[7, ~~or~~  
26 ~~lease-purchase~~] a used manufactured home to a consumer for use as a  
27 dwelling without providing:

(1) a written disclosure, on a form not to exceed two pages prescribed by the department, describing the condition of the home and of any appliances that are included in the home; and

(2) a written warranty that the home is and will remain habitable until the 60th day after the later of the installation date or the date of the purchase agreement.

(b) Unless, not later than the 65th day after the later of the installation date or the date of the sale or[7] exchange[7~~or~~ ~~lease-purchase agreement~~], the consumer notifies the seller in writing of a defect that makes the home not habitable, any obligation or liability of the seller under this subchapter is terminated. The warranty must conspicuously disclose that notice requirement to the consumer.

SECTION 53. Section 1201.456, Occupations Code, is amended to read as follows:

Sec. 1201.456. HABITABILITY: EXCEPTION TO WARRANTY REQUIREMENT. The warranty requirement imposed by Section 1201.455 does not apply to a sale or[7] exchange[7~~or~~ ~~lease-purchase~~] of a used manufactured home from one consumer to another.

SECTION 54. Section 1201.457, Occupations Code, is amended to read as follows:

Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM NONRESIDENTIAL [BUSINESS] USE OR SALVAGE. (a) If the sale or[7] exchange[7~~or~~ ~~lease-purchase~~] of a used manufactured home is to a purchaser for the purchaser's business use, the home is not required to be habitable. The purchaser of the home shall file with the department an application for the issuance of a statement of

ownership [~~and location~~] indicating that the home is reserved for a business use.

(a-1) If the sale or exchange of a used manufactured home is for the purchaser's nonresidential use other than a business use, the home is not required to be habitable. The purchaser of the home shall file with the department an application for the issuance of a statement of ownership indicating that the home is for a nonresidential use other than a business use.

(b) If a used manufactured home is reserved for a business use or another nonresidential use or is salvaged, a person may not knowingly allow any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership [~~and location~~] indicating that the home is no longer reserved for that [~~business~~] use or is no longer salvaged [~~salvage~~]. On the purchaser's application to the department for issuance of a new statement of ownership [~~and location~~], the department shall inspect the home and, if the department determines that the home is habitable, issue a new statement of ownership [~~and location~~].

SECTION 55. Section 1201.459(c), Occupations Code, is amended to read as follows:

(c) A seal issued to a tax appraiser or tax assessor-collector is for identification purposes only and does not imply that:

- (1) the home is habitable; or
- (2) a purchaser of the home at a tax sale may obtain a new statement of ownership [~~and location~~] from the department without an inspection for habitability.

SECTION 56. Section 1201.460, Occupations Code, is amended to read as follows:

Sec. 1201.460. COMPLIANCE NOT REQUIRED FOR LIENHOLDER. (a) A holder of a lien recorded on the statement of ownership [~~and location~~] of a manufactured home that has not been converted to real property who sells or [~~7~~] exchanges [~~7, or lease-purchases~~] a repossessed manufactured home covered by that statement of ownership [~~and location~~] is not required to comply with this chapter if the sale or [~~7~~] exchange [~~7, or lease-purchase~~] is:

(1) to or through a licensed retailer; or

(2) to a purchaser for the purchaser's business use or another nonresidential use.

(b) If the sale or [~~7~~] exchange [~~7, or lease-purchase~~] of the repossessed manufactured home is to or through a licensed retailer, the retailer is responsible and liable for compliance with this chapter and department rules. The lienholder may not be joined as a party in any litigation relating to the sale or [~~7~~] exchange [~~7, or lease-purchase~~] of the home.

(c) If the sale or [~~7~~] exchange [~~7, or lease-purchase~~] of the repossessed manufactured home is to a purchaser for the purchaser's business use or another nonresidential use, the lienholder shall apply to the department for the issuance of a new statement of ownership [~~and location~~] indicating that the home is reserved for a business use or another nonresidential use.

SECTION 57. Sections 1201.461(b), (c), (e), (f), and (h), Occupations Code, are amended to read as follows:

(b) A person who owns a used manufactured home that is

1 salvaged shall apply to the director for the issuance of a new  
2 statement of ownership [~~and location~~] that indicates that the home  
3 is salvaged.

4 (c) If a new manufactured home is salvaged, the retailer  
5 shall remove the label and surrender the label and the  
6 manufacturer's certificate under Section 1201.204 to the director  
7 for issuance of a statement of ownership [~~and location~~] that  
8 indicates that the home is salvaged.

9 (e) A person may not repair, rebuild, or otherwise refurbish  
10 [~~alter~~] a salvaged manufactured home unless the person complies  
11 with the rules of the director relating to rebuilding a salvaged  
12 manufactured home.

13 (f) If a salvaged manufactured home is rebuilt in accordance  
14 with this chapter and the rules of the director, the director shall,  
15 on application, issue a new statement of ownership [~~and location~~]  
16 that indicates that the home is no longer salvaged.

17 (h) A licensee may not participate in the sale, exchange,  
18 [~~lease-purchase~~], or installation for use as a dwelling of a  
19 manufactured home that is salvage and that has not been repaired in  
20 accordance with this chapter and the department's rules. An act  
21 that is prohibited by this subsection is deemed to be a practice  
22 that constitutes an imminent threat to health or safety and is  
23 subject to the imposition of penalties and other sanctions provided  
24 for by this chapter. A violation of this subsection is a Class B  
25 misdemeanor.

26 SECTION 58. Section 1201.504, Occupations Code, is amended  
27 to read as follows:

Sec. 1201.504. PROHIBITED SALE OR[7] EXCHANGE [~~7~~—OR  
~~LEASE-PURCHASE~~]. (a) A manufacturer may not sell or[7] exchange,  
~~[or—lease-purchase]~~ or offer to sell or[7] exchange, [~~or~~  
~~lease-purchase]~~ a manufactured home to a person in this state who is  
not a licensed retailer.

(b) A retailer may not sell or[7] exchange, [~~or~~  
~~lease-purchase]~~ or offer to sell or[7] exchange, [~~or~~  
~~lease-purchase]~~ a new HUD-code manufactured home that was  
constructed by a manufacturer who was not licensed by the  
department at the time of construction.

(c) A retailer, broker, or salesperson may not sell or[7]  
exchange, [~~or—lease-purchase]~~ or offer to sell or [7] exchange, [~~or~~  
~~lease-purchase]~~ a manufactured home to a consumer in this state for  
use as a dwelling unless the appropriate seal or label is attached  
to the home.

SECTION 59. Sections 1201.512(b) and (c), Occupations Code,  
are amended to read as follows:

(b) Unless the retailer, broker, or salesperson complies  
with the requirements of the National Flood Insurance Act of 1968  
(42 U.S.C. Section 4001 et seq.), Subchapter I, Chapter 16, Water  
Code, and any other applicable local, state, or federal law, and  
ensures the consumer's compliance with applicable law by requiring  
the evidence described by Subsection (c), a retailer, broker, or  
salesperson who sells or[7] exchanges [~~7~~—~~or—lease-purchases]~~ a new  
or used manufactured home to a consumer for use as a permanent  
dwelling in this state may not:

(1) deliver or arrange for the delivery of the home to

1 a homesite in a special flood hazard area designated by the director  
2 of the Federal Emergency Management Agency;

3 (2) install or arrange for the installation of the  
4 home at a homesite in that area; or

5 (3) assist the consumer in the delivery or  
6 installation of, or in making arrangements for the delivery or  
7 installation of, the home to or at a homesite in that area.

8 (c) Before closing on the acquisition of a new or used  
9 manufactured home for use as a permanent dwelling in this state, a  
10 consumer seeking to acquire the home must provide to the retailer,  
11 broker, or salesperson selling or[~~7~~] exchanging[~~7~~—~~or~~  
12 ~~lease-purchasing~~] the home satisfactory evidence that the home will  
13 not be located, in a manner that violates local, state, or federal  
14 law, on a homesite in a special flood hazard area designated by the  
15 director of the Federal Emergency Management Agency. A consumer  
16 may satisfy the evidentiary requirement of this subsection by  
17 providing the retailer, broker, or salesperson, as applicable, with  
18 a copy of any required permit to install a septic tank on the  
19 homesite.

20 SECTION 60. Section [1201.513](#)(b), Occupations Code, is  
21 amended to read as follows:

22 (b) A retailer may not knowingly permit a consumer to occupy  
23 a manufactured home that is the subject of a sale or[~~7~~] exchange[~~7~~  
24 ~~or lease-purchase~~] to that consumer before the closing of any  
25 required financing unless the consumer is first given a form  
26 adopted by the board disclosing that if for any reason the financing  
27 does not close, the consumer may be required to vacate the home.

SECTION 61. Section 1201.551(a), Occupations Code, is amended to read as follows:

(a) The director may deny, permanently revoke, or suspend for a definite period and specified sales location or geographic area a license if the director determines that the applicant or license holder:

(1) knowingly and wilfully violated this chapter or a rule adopted or order issued under this chapter;

(2) unlawfully retained or converted money, property, or any other thing of value from a consumer in the form of a down payment, sales or use tax, deposit, or insurance premium;

(3) failed repeatedly to file with the department a completed application for a statement of ownership ~~[and location]~~ before the 61st day after the date of the sale of a manufactured home as required by Section 1201.206 or the date of the installation, whichever occurred later;

(4) failed to give or breached a manufactured home warranty required by this chapter or by the Federal Trade Commission;

(5) engaged in a false, misleading, or deceptive act or practice as described by Subchapter E, Chapter 17, Business & Commerce Code;

(6) failed to provide or file a report required by the department for the administration or enforcement of this chapter;

(7) provided false information on an application, report, or other document filed with the department;

(8) acquired a criminal record during the five-year



1 period preceding the application date that, in the opinion of the  
2 director, makes the applicant unfit for licensing;

3 (9) failed to file a bond or other security for each  
4 location as required by Subchapter C; ~~[or]~~

5 (10) has had another license issued by this state  
6 revoked or suspended; or

7 (11) failed to pay the required fee to obtain or renew  
8 a license.

9 SECTION 62. Section 347.002(b), Finance Code, is amended to  
10 read as follows:

11 (b) To the extent possible, a word or phrase used in this  
12 chapter, other than a term defined by this section, has the meaning  
13 assigned by the Truth in Lending ~~[Part I, Consumer Credit~~  
14 ~~Protection]~~ Act (15 U.S.C. Section 1601 et seq.) and its subsequent  
15 amendments, as implemented by Regulation Z (12 C.F.R. Part 1026)  
16 ~~[12 C.F.R. 226.1 et seq.]~~.

17 SECTION 63. Section 347.004(a), Finance Code, is amended to  
18 read as follows:

19 (a) A creditor shall comply with all applicable  
20 requirements, including required disclosures, under the Truth in  
21 Lending ~~[Part I, Consumer Credit Protection]~~ Act (15 U.S.C. Section  
22 1601 et seq.) and its subsequent amendments, as implemented by  
23 Regulation Z (12 C.F.R. Part 1026) ~~[12 C.F.R. 226.1 et seq.~~  
24 ~~(Regulation Z)]~~ adopted under that Act.

25 SECTION 64. Section 347.056, Finance Code, is amended to  
26 read as follows:

27 Sec. 347.056. AUTHORITY OF CONSUMER CREDIT COMMISSIONER

RELATING TO A CREDIT DOCUMENT. Except as provided by Section 347.004(a), the ~~[The]~~ commissioner may not require the inclusion of any specific language or a disclosure on a credit document that is not expressly required by:

(1) this chapter; or

(2) a regulation of the Office of the Comptroller of the Currency ~~[Thrift Supervision]~~.

SECTION 65. Section 347.155(b), Finance Code, is amended to read as follows:

(b) On prepayment, after deduction of an acquisition charge that does not exceed \$50, the consumer is entitled to a refund credit of the time price differential or interest. The amount of the credit is computed on an actuarial basis in accordance with regulations of the Office of the Comptroller of the Currency ~~[Thrift Supervision]~~ adopted under the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. Section 1735f-7a ~~[4a]~~ et seq.) for the prepayment of a mortgage loan that is secured by a first lien on a residential manufactured home.

SECTION 66. Section 347.356, Finance Code, is amended to read as follows:

Sec. 347.356. REQUIREMENTS FOR ACTION TO REPOSSESS, FORECLOSE, OR ACCELERATE PAYMENT OF ENTIRE DEBT. An action to repossess a manufactured home, foreclose a lien on a manufactured home, or accelerate payment of the entire unpaid balance of a credit transaction must comply with the regulations of the Office of the Comptroller of the Currency ~~[Thrift Supervision]~~ relating to the disclosure required for repossession, foreclosure, or acceleration

1 except in extreme circumstances, including abandonment or  
2 voluntary surrender of the manufactured home.

3 SECTION 67. Section 347.455(b), Finance Code, is amended to  
4 read as follows:

5 (b) If the real property is included in the cash price of a  
6 credit transaction, the creditor may:

7 (1) charge a fee that is ordinarily associated with a  
8 real property transaction and is not prohibited by law, including a  
9 fee that is associated with a real property transaction and  
10 excluded from a finance charge under this chapter by the Consumer  
11 Credit Protection Act (15 U.S.C. Section 1601 et seq.) and  
12 Regulation Z (12 C.F.R. Part 1026) [~~12 C.F.R. Section 226.1 et seq.~~  
13 ~~(Regulation Z)~~] adopted under that Act; and

14 (2) elect to treat the manufactured home as if it were  
15 residential real property for all purposes in connection with the  
16 credit transaction by conspicuously disclosing that election to the  
17 consumer.

18 SECTION 68. Section 63.005(a), Property Code, is amended to  
19 read as follows:

20 (a) A manufactured home becomes a new improvement to the  
21 homestead of a family or of a single adult person upon the filing of  
22 the appropriate statement of ownership [~~certificate of attachment~~]  
23 as provided in Chapter 1201, Occupations Code. As such, if the debt  
24 for the manufactured home was contracted for in writing, that debt  
25 is considered to be for work and materials used in constructing new  
26 improvements thereon and thus constitutes a valid lien on the  
27 homestead when the appropriate statement of ownership [~~certificate~~

1 ~~of attachment~~] is filed in the Official Public Records of Real  
2 Property in the county in which the land is located.

3 SECTION 69. Section 23.127(a), Tax Code, is amended by  
4 amending Subdivisions (3) and (9) to read as follows:

5 (3) "Declaration" means a retail manufactured housing  
6 inventory declaration form adopted by the comptroller under this  
7 section in relation to units of manufactured housing considered to  
8 be retail manufactured housing inventory.

9 (9) "Retail manufactured housing inventory" means all  
10 units of manufactured housing that a retailer holds for sale at  
11 retail and that are defined as inventory by Section 1201.201,  
12 Occupations Code.

13 SECTION 70. Section 23.127, Tax Code, is amended by adding  
14 Subsection (m) to read as follows:

15 (m) When a retailer files a declaration under this section,  
16 the chief appraiser:

17 (1) may impose only a property tax on retail  
18 manufactured housing inventory as described by this section and  
19 Section 23.128; and

20 (2) may not tax as personal property homes declared as  
21 retail manufactured housing inventory.

22 SECTION 71. The following provisions of the Occupations Code  
23 are repealed:

- 24 (1) Section 1201.003(16);  
25 (2) Section 1201.058(b);  
26 (3) Section 1201.101(f-1);  
27 (4) Sections 1201.206(i), (i-1), and (j);

1           (5)   Section [1201.210](#)(d); and

2           (6)   Sections [1201.303](#)(c), (d), (e), (f), and (g).

3   SECTION 72.   This Act take effect September 1, 2018.